



SIXTH COURT OF APPEALS
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CONFIRM RECEIPT: YES ☐ NO ☐

FROM: Molly Pate, Deputy Clerk

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NOTES:

06-12-00026-CV, copy of opinion and judgment
06-12-00028-CV copy of order

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CHIEF JUSTICE
JOSH R. MORRIS, III

JUSTICES
JACK CARTER
BAILEY C. MOSELEY

Court of Appeals
Sixth Appellate District
State of Texas

CLERK
DEBRA K. AUTREY

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Thursday, March 08, 2012

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RE: Appellate Case Number: 06-12-00026-CV
Trial Court Case Number:

Style: In Re: The Crawford Family Farm Partnership

The Court entered its order this date in the referenced proceeding whereby said Petition for Writ of Mandamus if **DENIED**.

A true copy of this Court's Opinion and Judgment is enclosed.

Respectfully submitted,

Debra K. Autrey, Clerk

By  Deputy

(w/copy of enclosures)
Hon. William H. Harris



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-12-00026-CV

IN RE:
CRAWFORD FAMILY FARM PARTNERSHIP

Original Mandamus Proceeding

Before Morriss, C.J., Carter and Moseley, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

Crawford Family Farm Partnership (Crawford) has filed a petition for writ of mandamus in which it seeks to convince this Court to order the trial court to set aside its denial of Crawford's requested injunctive relief—and also to grant temporary injunctive relief—pending the outcome of the condemnation case against Crawford filed by TransCanada Keystone Pipeline. Crawford's filing reached this Court late Friday afternoon and requested emergency relief, which we chose to grant only in an abundance of caution to preserve our jurisdiction, and which, given time to review, we conclude should be dissolved in our disposition of this mandamus.

We grant the extraordinary relief of mandamus only when the trial court has clearly abused its discretion and the relator lacks an adequate appellate remedy. *In re Team Rocket, L.P.*, 256 S.W.3d 257 (Tex. 2008). In this case, the order at bar is one refusing a temporary injunction. Such an order is explicitly appealable. TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(4) (West Supp. 2011). The remedy of mandamus is therefore not available.

Crawford's petition asks this Court that, if we find we cannot consider the mandamus request, we refile the case as a direct interlocutory appeal. The jurisdiction of a court of appeals is invoked by timely filing documents showing a bona fide intent to appeal. *See Verburgt v. Dorner*, 959 S.W.2d 615, 616 (Tex. 1997). In an accelerated appeal, the notice of appeal must be filed within twenty days after the judgment is signed. TEX. R. APP. P. 26.1(b). The document thus indicates the clear desire to bring an appeal required of an effective notice of appeal, and we will so treat it.

We deny the petition for writ of mandamus and withdraw our order granting emergency relief issued in connection with the petition.¹ By separate order dated this date, we refile Crawford's filing as an interlocutory appeal and make further orders relative to that appeal.



Josh R. Morriss, III
Chief Justice

Date Submitted: March 8, 2012
Date Decided: March 8, 2012

¹TEX. R. APP. P. 52.10.

FILED IN
The Court of Appeals
Sixth District

MAR 08 2012

Texas, Texas
Debra Aubrey, Clerk



**Court of Appeals
Sixth Appellate District of Texas**

JUDGMENT

In re: Crawford Family Farm
Partnership

No. 06-12-00026-CV

Original Mandamus Proceeding

Opinion delivered by Chief Justice
Morris, Justice Carter and Justice
Moseley participating

As stated in the Court's opinion of this date, we find that Relator is not entitled to the relief sought. Therefore, we deny the petition.

RENDERED MARCH 8, 2012
BY ORDER OF THE COURT
JOSH R. MORRIS, III
CHIEF JUSTICE

ATTEST:
Debra Autrey, Clerk



CHIEF JUSTICE
JOSH R. MORRIS, III

JUSTICES
JACK CARTER
BAILEY C. MOSELEY

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RE: Appellate Case Number: 06-12-00028-CV
Trial Court Case Number: 80810

Style: The Crawford Family Farm Partnership
v.
TransCanada Keystone Pipeline, L. P.

Enclosed is this Court's Order rendered this date in the referenced proceeding.

Respectfully submitted,

Debra K. Autrey, Clerk

By Molly Pater Deputy

cc: Ms. Marvin Ann Patterson



**In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana**

No. 06-12-00028-CV

CRAWFORD FAMILY FARM PARTNERSHIP, Appellant

V.

TRANSCANADA KEYSTONE PIPELINE, Appellee

On Appeal from the County Court at Law
Lamar County, Texas
Trial Court No. 80810

Before Morriss, C.J., Carter and Moseley, JJ.

ORDER

Crawford Family Farm Partnership (Crawford) filed a document with this Court late last Friday afternoon, nominally seeking mandamus relief, but alternatively asking this Court to treat the document as its attempt to perfect an interlocutory appeal and as its appellate brief, should we conclude that mandamus is unavailable.

By separate opinion, we have this day denied the petition for writ of mandamus, because the order denying a permanent injunction is, by statute, appealable. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014 (West Supp. 2011).

The Crawford filing is sufficient to show that Crawford alternatively desires to pursue an interlocutory appeal. We, thus, conclude that the document filed evidences a bona fide attempt to invoke this Court's jurisdiction through appeal.¹ *CMH Homes v. Perez*, 340 S.W.3d 444, 452–53 (Tex. 2011). We, therefore, file it this day under this newly assigned cause number as a notice of appeal from the order denying a temporary injunction.² This is an accelerated, interlocutory appeal. Therefore, the record is due ten days from today's date. *See* TEX. R. APP. P. 35.1(b).

¹We recognize that a mandamus action has been held as not showing an intent to appeal. *See Linwood v. NCNB Tex.*, 885 S.W.2d 102, 103 (Tex. 1994) (allowing appeal despite absence of cost bond—notice could be amended by filing cost bond); *Raymond Overseas Holding, Ltd. v. Curry*, 955 S.W.2d 470, 472 (Tex. App.—Fort Worth 1997, no pet.) (focusing, however, on absence of cost bond, which is no longer jurisdictional prerequisite to pursuing an appeal). However, as this petition explicitly seeks both types of relief alternatively, it is sufficient.

²The document filed will not be treated as the appellant's brief in this case. It was written as a petition seeking mandamus, and is based on the partial record provided by the appellant/relator as an appendix. We anticipate that the appellant will provide this Court with a brief appropriate for an appeal, and based on an official record to be filed herein.

Because it is apparent that the underlying trial on eminent domain is scheduled at the end of April, we shorten the timetable for filing briefs to require appellant to file its brief within ten days after the date the record is filed. Appellee's brief will be due ten days after appellant's brief is filed.

Because of the nature of this proceeding, no requests for extension will be considered, either for the record or for briefs.

Crawford also requests that we issue temporary orders equivalent to the injunction sought below for the stated purpose of preserving the parties' rights until disposition of this appeal. We do have the authority to issue such an order (which could be accompanied by a bond). *See* TEX. R. APP. P. 29.3. On a more considered review of the request for what is effectively an injunction preventing further action on the condemned property by the appellee pending our decision on this interlocutory appeal, we have not been shown that such relief is necessary. Accordingly, the request for issuance of a temporary order enjoining activity by the appellee is denied.

Crawford has also asked this Court to stay the underlying trial pending our decision on this appeal. To grant that relief would merely delay final disposition of the proceeding. There is no justification for doing so in this situation. The request for a stay of the underlying trial is denied.

IT IS SO ORDERED.

BY THE COURT

Date: March 8, 2012

FILED IN
The Court of Appeals
Sixth District

MAR 08 2012